

Translation

## PATENT COOPERATION TREATY

### PCT

#### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>8601 WO RO-AL</b>	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/006145</b>	International filing date ( <i>day/month/year</i> ) <b>08.06.2004</b>	Priority date ( <i>day/month/year</i> ) <b>05.07.2003</b>
International Patent Classification (IPC) or national classification and IPC <b>F16H61/04, F16H3/12</b>		
Applicant <b>ZF FRIEDRICHSHAFEN AG</b>		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.		
2.	This REPORT consists of a total of <b>4</b> sheets, including this cover sheet.		
3.	This report is also accompanied by ANNEXES, comprising:		
a.	<input type="checkbox"/> ( <i>sent to the applicant and to the International Bureau</i> ) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.		
b.	<input type="checkbox"/> ( <i>sent to the International Bureau only</i> ) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).		
4.	This report contains indications relating to the following items:		
<input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application			

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/006145

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:  
pages \_\_\_\_\_ 1-14 \_\_\_\_\_ as originally filed/furnished  
pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_  
pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the claims:  
nos. \_\_\_\_\_ 1-7 \_\_\_\_\_ as originally filed/furnished  
nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_ as amended (together with any statement) under Article 19  
nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_  
nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the drawings:  
sheets \_\_\_\_\_ 1/1 \_\_\_\_\_ as originally filed/furnished  
sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_  
sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3.  The amendments have resulted in the cancellation of:

- the description, pages \_\_\_\_\_
- the claims, nos. \_\_\_\_\_
- the drawings, sheets/figs \_\_\_\_\_
- the sequence listing (*specify*): \_\_\_\_\_
- any table(s) related to sequence listing (*specify*): \_\_\_\_\_

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages \_\_\_\_\_
- the claims, nos. \_\_\_\_\_
- the drawings, sheets/figs \_\_\_\_\_
- the sequence listing (*specify*): \_\_\_\_\_
- any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/006145

**Box No. V      Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims	<u>1 - 7</u>	YES
	Claims	_____	NO
Inventive step (IS)	Claims	_____	YES
	Claims	<u>1 - 7</u>	NO
Industrial applicability (IA)	Claims	<u>1 - 7</u>	YES
	Claims	_____	NO

**2. Citations and explanations (Rule 70.7)**

1 This report makes reference to the following documents:

D1: US 3 834 499 A (AIMO S ET AL) 10 September  
1974 (1974-09-10)

D2: EP 0 947 741 A (EATON CORP) 6 October 1999  
(1999-10-06)

## 2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step (PCT Article 33(3)).

2.1.1 Document D1 is considered the prior art closest to the subject matter of claim 1 and discloses a method for controlling a transmission brake according to the preamble of claim 1.

2.1.2 The subject matter of claim 1 thus differs from that known from D1 in that the transmission brake is switched off prior to the calculated shut-down

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

time taking into consideration a derivative action time.

2.1.3 The present invention can therefore be considered to address the problem of improving the shifting characteristics of a gearbox during an upshift procedure.

2.1.4 The solution proposed in claim 1 of the present application cannot be considered inventive (PCT Article 33(3)) for the following reasons:

D2 discloses a method in which an engine brake is switched off prior to the calculated shut-down time taking into consideration a derivative action time (see paragraph 26 and claim 1, feature (c)). This concept has the advantage of improving the switching characteristics during an upshift procedure (column 6, lines 12-14). A person skilled in the art would therefore apply the concept to the method known from D1 in order to solve the aforementioned problem, without thereby being inventive.

3 DEPENDENT CLAIMS 2-7

Claims 2-7 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step.